

AMENDED IN ASSEMBLY APRIL 27, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## Assembly Constitutional Amendment

No. 9

**Introduced by Assembly Member Huffman**

**(Coauthors: Assembly Members *Fuentes*, *Portantino*, *Salas*, and *Torlakson*)**

~~(Coauthor: Senator *Hancock*)~~ *Coauthors: Senators *Hancock* and *Wolk**

February 6, 2009

---

Assembly Constitutional Amendment No. 9—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XIII A thereof, by amending Section 2 of Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to local government finance.

### LEGISLATIVE COUNSEL'S DIGEST

ACA 9, as amended, Huffman. Local government bonds: special taxes: voter approval.

(1) The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions.

This measure would create an additional exception to the 1% limit for a rate imposed by a city, county, ~~or city and county~~, *or special district* to service bonded indebtedness, incurred to fund specified public improvements, facilities *or buildings*, and housing, and related costs, that is approved by 55% of the voters of the city, county, ~~or city and county~~, *or special district*, as applicable. This additional exception would apply only if the proposition approved by the voters results in bonded indebtedness that includes specified accountability requirements.

(2) The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of  $\frac{2}{3}$  of the voters of the city, county, or special district voting on that tax, except that certain school entities may levy an ad valorem property tax for specified purposes with the approval of 55% of the voters within the jurisdiction of these entities.

This measure would change the  $\frac{2}{3}$  voter-approval requirement for special taxes to, instead, authorize a city, county, or special district to impose a special tax with the approval of 55% of its voters voting on the tax. This measure would also make technical, nonsubstantive changes to these provisions.

(3) The California Constitution prohibits a county, city, town, township, board of education, or school district from incurring any indebtedness exceeding in one year the income and revenue provided in that year, without the assent of  $\frac{2}{3}$  of the voters and subject to other conditions.

This measure would lower to 55% the voter approval threshold for a city, county, or city and county to incur bonded indebtedness, exceeding in one year the income and revenue provided in that year, that is in the form of general obligation bonds to fund specified public improvements.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

1     *Resolved by the Assembly, the Senate concurring,* That the  
2     Legislature of the State of California at its 2009–10 Regular  
3     Session commencing on the first day of December 2008, two-thirds  
4     of the membership of each house concurring, hereby proposes to  
5     the people of the State of California, that the Constitution of the  
6     State be amended as follows:

7     First—That Section 1 of Article XIII A thereof is amended to  
8     read:

9     SECTION 1. (a) The maximum amount of any ad valorem  
10    tax on real property shall not exceed 1 percent of the full cash  
11    value of that property. The 1 percent tax to be collected by the  
12    counties and apportioned according to law to the districts within  
13    the counties.

14    (b) The limitation provided for in subdivision (a) shall not apply  
15    to ad valorem taxes or special assessments to pay the interest and  
16    redemption charges on any of the following:

17    (1) Indebtedness approved by the voters prior to July 1, 1978.

(2) Bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) Bonded indebtedness incurred by a school district, community college district, or county office of education to fund the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in this paragraph, and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(4) (A) Bonded indebtedness, approved by 55 percent of the voters of the city, county, ~~or city and county~~, *or special district*, as applicable, voting on the proposition on or after the effective date of the measure adding this paragraph, incurred by a city, county, ~~or city and county~~ *county, or special district* to fund any or all of the following:

(i) Construction, reconstruction, rehabilitation, or replacement of ~~either~~ *any of the following*:

1 (I) Public improvements, including, but not limited to,  
2 improvements to transportation infrastructure, streets, highways,  
3 sewer systems, ~~waters~~ *water* systems, wastewater systems, and  
4 park and recreation facilities.

5 ~~(II) Public safety agency facilities.~~

6 ~~(ii) Development of housing affordable to lower and moderate~~  
7 ~~income households.~~

8 *(II) Facilities or buildings used exclusively to provide sheriff,*  
9 *police, or fire protection services to the public, including the*  
10 *furnishing and equipping of those facilities or buildings.*

11 *(III) Development of housing affordable to lower and*  
12 *moderate-income households*

13 ~~(iii)~~

14 *(ii) Acquisition or lease of real property for the public*  
15 *improvements, public safety agency facilities facilities or buildings,*  
16 *and housing described in clauses (i) and (ii) clause (i) of this*  
17 *subparagraph.*

18 (B) This paragraph shall apply only if the proposition approved  
19 by the voters and resulting in the bonded indebtedness includes  
20 all of the following accountability requirements:

21 (i) A requirement that the proceeds from the sale of the bonds  
22 be used only for the purposes specified in this paragraph, and not  
23 for any other purpose, including public employee salaries and other  
24 operating expenses of a public improvement, ~~public safety agency~~  
25 ~~facility~~ *facility or building*, or housing development once  
26 completed.

27 (ii) A list of the specific projects to be funded and certification  
28 that the city council ~~or~~, county board of ~~supervisors~~ *supervisors,*  
29 *or governing body of the special district* has evaluated the costs  
30 of operating the public improvements, public facilities, or  
31 affordable housing.

32 (iii) A requirement that the city council ~~or~~, county board of  
33 ~~supervisors~~ *supervisors, or governing body of the special district*  
34 conduct an annual, independent performance audit to ensure that  
35 the proceeds from the sale of the bonds have been expended only  
36 on the specific projects listed.

37 (iv) A requirement that the city council ~~or~~, county board of  
38 ~~supervisors~~ *supervisors, or governing body of the special district*  
39 conduct an annual, independent financial audit of the proceeds

1 from the sale of the bonds until all of those proceeds have been  
2 expended for the specific projects to be funded from the bonds.

3 (v) A requirement for a public process that solicits a wide range  
4 of public comment from the community about the types of facilities  
5 that should be funded with the bond.

6 (c) Notwithstanding any other provisions of law or of this  
7 Constitution, a school district, community college district, county  
8 office of education, ~~or a city, county, or city and county~~ *county*,  
9 *or special district* may levy a 55 percent vote ad valorem tax  
10 pursuant to subdivision (b).

11 Second—That Section 4 of Article XIII A thereof is amended  
12 to read:

13 Section 4. A city, county, or special district, by a 55 percent  
14 vote of its voters voting on the proposition, may impose a special  
15 tax within that city, county, or special district, except an ad valorem  
16 tax on real property or a transactions tax or sales tax on the sale  
17 of real property within that city, county, or special district.

18 Third—That Section 2 of Article XIII C thereof is amended to  
19 read:

20 SEC. 2. Notwithstanding any other provision of this  
21 Constitution:

22 (a) A tax imposed by any local government is either a general  
23 tax or a special tax. A special purpose district or agency, including  
24 a school district, has no authority to levy a general tax.

25 (b) A local government shall not impose, extend, or increase  
26 any general tax unless and until that tax is submitted to the  
27 electorate and approved by a majority vote of its voters voting on  
28 the proposition. A general tax is not deemed to have been increased  
29 if it is imposed at a rate not higher than the maximum rate so  
30 approved. The election required by this subdivision shall be  
31 consolidated with a regularly scheduled general election for  
32 members of the governing body of the local government, except  
33 in cases of emergency declared by a unanimous vote of the  
34 governing body.

35 (c) Any general tax imposed, extended, or increased, without  
36 voter approval, by any local government on or after January 1,  
37 1995, and prior to the effective date of this article, may continue  
38 to be imposed only if that general tax is approved by a majority  
39 vote of the voters voting in an election on the issue of the

1 imposition, which election is held no later than November 6, 1998,  
2 and in compliance with subdivision (b).

3 (d) A local government shall not impose, extend, or increase  
4 any special tax unless and until that tax is submitted to the  
5 electorate and approved by a 55 percent vote of its voters voting  
6 on the proposition. A special tax is not deemed to have been  
7 increased if it is imposed at a rate not higher than the maximum  
8 rate so approved.

9 Fourth—That Section 3 of Article XIII D thereof is amended  
10 to read:

11 SEC. 3. (a) An agency shall not assess a tax, assessment, fee,  
12 or charge upon any parcel of property or upon any person as an  
13 incident of property ownership except:

14 (1) The ad valorem property tax imposed pursuant to Article  
15 XIII and Article XIII A.

16 (2) Any special tax approved by the voters of the city, county,  
17 ~~or~~ city and county, *or special district*, as appropriate, voting on  
18 the proposition, as required by the California Constitution.

19 (3) Assessments as provided by this article.

20 (4) Fees or charges for property-related services as provided by  
21 this article.

22 (b) For purposes of this article, fees for the provision of electrical  
23 or gas service are not deemed charges or fees imposed as an  
24 incident of property ownership.

25 Fifth—That Section 18 of Article XVI thereof is amended to  
26 read:

27 SEC. 18. (a) No county, city, town, township, board of  
28 education, or school district, shall incur any indebtedness or  
29 liability in any manner or for any purpose exceeding in any year  
30 the income and revenue provided for that year, without the assent  
31 of two-thirds of the voters of the public entity voting at an election  
32 to be held for that purpose, except that with respect to any such  
33 public entity that is authorized to incur indebtedness for public  
34 school purposes, any proposition for the incurrence of indebtedness  
35 in the form of general obligation bonds for the purpose of repairing,  
36 reconstructing, or replacing public school buildings determined,  
37 in the manner prescribed by law, to be structurally unsafe for school  
38 use, shall be adopted upon the approval of a majority of the voters  
39 of the public entity voting on the proposition at that election; nor  
40 unless before or at the time of incurring the indebtedness, provision

1 shall be made for the collection of an annual tax sufficient to pay  
2 the interest on the indebtedness as it falls due, and to provide for  
3 a sinking fund for the payment of the principal thereof, on or before  
4 maturity, which shall not exceed forty years from the time of  
5 contracting the indebtedness.

6 (b) Notwithstanding subdivision (a), on or after November 8,  
7 2000, in the case of any school district, community college district,  
8 or county office of education, any proposition for the incurrence  
9 of indebtedness in the form of general obligation bonds for the  
10 construction, reconstruction, rehabilitation, or replacement of  
11 school facilities, including the furnishing and equipping of school  
12 facilities, or the acquisition or lease of real property for school  
13 facilities, shall be adopted upon the approval of 55 percent of the  
14 voters of the district or county, as appropriate, voting on the  
15 proposition at an election. This subdivision shall apply only to a  
16 proposition for the incurrence of indebtedness in the form of  
17 general obligation bonds for the purposes specified in this  
18 subdivision if the proposition meets all of the accountability  
19 requirements of paragraph (3) of subdivision (b) of Section 1 of  
20 Article XIII A.

21 (c) Notwithstanding subdivision (a), on or after the effective  
22 date of the measure adding this subdivision, in the case of any city,  
23 county, or city and county, any proposition to incur indebtedness  
24 in the form of general obligation bonds shall be adopted by 55  
25 percent of the voters of the city, county, or city and county, as  
26 applicable, voting on the proposition at an election, where the  
27 general obligation bonds fund any or all of the following:

28 (1) Construction, reconstruction, rehabilitation, or replacement  
29 of ~~either~~ *any of the following*:

30 (A) Public improvements, including, but not limited to,  
31 improvements to transportation infrastructures, streets, highways,  
32 sewer systems, waters systems, wastewater systems, and park and  
33 recreation facilities.

34 ~~(B) Public safety agency facilities.~~

35 ~~(2) Development of housing affordable to lower and moderate~~  
36 ~~income households.~~

37 *(B) Facilities or buildings used exclusively to provide sheriff,*  
38 *police, or fire protection services to the public, including the*  
39 *furnishing and equipping of those facilities or buildings.*

1 (C) *Development of housing affordable to lower and*  
2 *moderate-income households.*

3 ~~(3)~~

4 (2) Acquisition or lease of real property for the public  
5 improvements, ~~public safety agency facilities~~ *facilities or buildings*,  
6 and housing described in ~~paragraphs (1) and (2)~~ *paragraph (1)* of  
7 this subdivision.

8 (d) When two or more propositions for incurring any  
9 indebtedness or liability are submitted at the same election, the  
10 votes cast for and against each proposition shall be counted  
11 separately, and when two-thirds or a majority or 55 percent of the  
12 voters, as the case may be, voting on any one of those propositions,  
13 vote in favor thereof, the proposition shall be deemed adopted.